



# City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 076-08

402 ORILLA DEL MAR

DEVELOPMENT PLAN, COASTAL DEVELOPMENT PERMIT AND  
MODIFICATION

OCTOBER 8, 2008

APPLICATION OF RICHARD D. STARNES, ARCHITECT FOR WERNER  
REVOCABLE INTER VIVOS TRUST, 402 ORILLA DEL MAR (VILLA ELEGANTE),  
APN 017-313-019, HRC-1/SD-3 HOTEL AND RELATED COMMERCE/COASTAL  
OVERLAY ZONES, GENERAL PLAN DESIGNATION: HOTEL AND RELATED  
COMMERCE/HOTEL AND RESIDENTIAL USE (MST2007-00629/CDP2008-00014)

The proposed project involves a 1,324 square foot second story addition, which will connect two existing buildings, creating a carport that was previously an uncovered parking space. The project includes the conversion of existing resort Unit "B" into a manager's office (not for use as sleeping quarters), a laundry room and guest common area, and creates a new Unit "B" on the second floor. The project site is currently developed with six (6) Residential Resort Hotel Units with parking provided by nine (9) covered and three (3) uncovered parking spaces. There is no proposed change to the number of hotel units or parking spaces.

The discretionary applications required for this project are:

1. A Modification to allow one-story portions of the two-story building to encroach into the required twenty-foot (20') front yard setback along Calle Puerto Vallarta. (SBMC§28.22.060 and §28.92.110)
2. Development Plan Approval to allow the addition of 1,324 square feet to be allocated from Measure E square footage from the Small addition category. (SBMC§28.87.300)
3. A Coastal Development Permit to allow new development in the Appealable Jurisdiction of the Coastal Zone. (SBMC§28.44.060)

**WHEREAS**, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, No one people appeared to speak in favor or opposition of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, October 1, 2008.
2. Site Plans.

**NOW, THEREFORE BE IT RESOLVED** that the City Staff Hearing Officer:

I. Approved the subject application making the following findings and determinations:

**A. MODIFICATION (SBMC §28.22.060 AND §28.92.110)**

The requested front yard setback modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot, and promotes uniformity of improvement.

*The encroachment of the single story portion of the proposed addition within the front setback is consistent with the existing setback of the building along Calle Puerto Vallarta which provides a uniform improvement on the lot. The proposed encroachment is similar to the pattern of development on surrounding properties and has a clear pedestrian orientation. The proposed addition allows for the expansion without a reduction in the required parking, and the subject property abuts a property which allows, but is not zoned for residential uses.*

**B. COASTAL DEVELOPMENT PERMIT (SBMC §28.45.009)**

1. The project is consistent with the policies of the California Coastal Act.

*The proposed addition provides additional hotel related amenities to the existing resort units, which addresses the need for visitor serving uses in the Coastal Zone.*

2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code.

*The proposed addition will provide an expansion of hotel related services for the resort units which is consistent with the Hotel and Related Commerce Zoning as well as the Local Coastal Plan.*

3. The project is consistent with the Chapter 3 (commencing with Section 30200) Policies of the Coastal Act regarding public access and public recreation.

*The proposed addition addresses the need for visitor serving uses.*

**C. FOR THE DEVELOPMENT PLAN (SBMC §28.87.300)**

1. The proposed development complies with all provisions of this Title; and

2. The proposed development is consistent with the principles of sound community planning; and

*The proposed modification would allow for the proposed addition to have a uniform setback to allow for floor area to serve as hotel related office, service and storage space and will not further reduce the required parking and minimizes the loss of landscaped areas. Providing the building close to the sidewalk with the entrance facing the street makes the building more visually accessible to the street and complements the scale of the existing neighborhood.*

3. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock; and  
*The project is a small addition that will not involve a significant number of employees creating new demand for low to moderate income housing in the area.*
4. The proposed development will not have a significant unmitigated adverse impact on the City's water resources; and  
*The project is a small addition that will not involve a significant incremental increase in water demand.*
5. The proposed development will not have a significant unmitigated adverse impact on the City's traffic; and  
*The project is a small addition that will not involve a significant incremental increase in traffic.*
6. Resources will be available and traffic improvements will be in place at the time of project occupancy.  
*The proposed project does not require any traffic improvements.*

II. Said approval is subject to the following conditions:

In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

- A. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
  1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on October 8, 2008 is limited to (approximately 1,324 square feet of building area) and the improvements shown on the Development Plan signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.

2. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement. The following tree protection shall be incorporated:
- B. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an "Agreement Assigning Water Extraction Rights." Engineering Division Staff will prepare said agreement for the Owner's signature.
  2. **Solid Waste Management Plan.** Owner shall submit a solid waste management plan that identifies feasible measures to address the construction and operation of the parking lot, bicycle station and office uses which may include, but are not limited to, the following:
    - a. Provision of space and/or bins for storage of recyclable materials within the project site. This information shall be shown on the building plans and installed as a part of the proposed project's improvements.
    - b. Development and implementation of a plan for collection of recyclable materials on a regular basis.
    - c. Development of Source Reduction Measures, indicating the method and amount of expected reduction.
    - d. Implementation of a program to purchase recycled materials used in association with the proposed project (paper, newsprint, etc.). This could include requesting suppliers to show recycled material content.
    - e. Implementation of a monitoring program (quarterly, bi-annually) to attain and maintain a 35-50% minimum participation in recycling efforts.
    - f. Implementation of a composting landscape waste reduction program.
- C. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:
1. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

- D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.

1. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner	Date
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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2. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.



If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

3. **Revised Floor Plan.** The configuration of the former unit B (new common area, manager's office, and laundry) shall be revised to eliminate the full kitchen as this former unit is not to be used as a dwelling unit. There shall not be a stove, oven, full size refrigerator, dishwasher, or full size sink. The configuration may include a bar sink, under counter refrigerator, and portable plug in appliances for the purposes of allowing the common area to be used as guest lobby.
- E. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
- F. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer and Planning Commission approvals of the Project are appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.
- Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project.

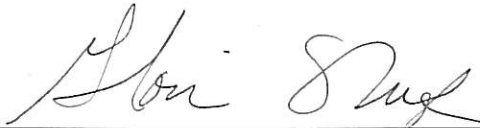
These commitments of defense and indemnification are material conditions of the approval of the Project.

If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

**NOTICE OF TIME LIMITS:** As provided in SBMC § 28.87.370 and except as otherwise prohibited by state or federal law, the initial time limit for the approved Development Plan, Coastal Development Permit, and Modification shall be determined by the time limit for the Development Plan - four (4) years from the date of final approval. Extensions of this time may be granted as provided by the Municipal Code for up to a total of six (6) years from the date of final approval as limited by the Coastal Development Permit.

This motion was passed and adopted on the 8th day of October, 2008 by the Staff Hearing Officer of the city of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.



Gloria Shafer, Staff Hearing Officer Secretary



Date

**PLEASE BE ADVISED:**

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
5. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
  - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
  - b. The approved use has not been discontinued, abandoned or unused for a period of six months following the earlier of:
    - i. an Issuance of a Certificate of Occupancy for the use, or;
    - ii. one (1) year from granting the approval.